

## Remarks

### Rejections under 35 U.S.C. 112

Claim 8 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 is canceled with the present invention. Therefore, the 35 U.S.C. 112, second paragraph rejection is mooted.

### Rejections under 35 U.S.C. 102

Claims 1 – 7, and 9-10 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2006/0193805.

In the reasons for the rejection, the Office acknowledges;

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Applicant submits herein a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application, and therefore is not the invention “by another”.

Appl. No. 10/552,537  
Response dated 10/08/2010  
Reply to Office Action of 07/09/2010

The present response is being submitted within the three month shortened statutory period for response to the outstanding Office Action. Applicant authorizes the USPTO to charge deposit account 04-1520 for any fees that should be necessary to maintain the pendency of the application.

In view of the above, it is respectfully submitted that the claims are in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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